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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/898,867	07/03/2001	Banning G. Lary	SYN-053	4123
36822	7590	06/01/2005	EXAMINER	
GORDON & JACOBSON, P.C. 60 LONG RIDGE ROAD SUITE 407 STAMFORD, CT 06902			MENDEZ, MANUEL A	
			ART UNIT	PAPER NUMBER
			3763	

DATE MAILED: 06/01/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

SP

<b>Office Action Summary</b>	Application No. 09/898,867	Applicant(s) LARY ET AL.	
	Examiner Manuel Mendez	Art Unit 3763	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE \_\_\_\_ MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 17 March 2005.
- 2a) ☐ This action is FINAL.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 41-46 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 41-46 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |   |  |
|---|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)            |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date ____ | 6) <input type="checkbox"/> Other: ____  |

DETAILED ACTION

***Claim Rejections - 35 USC § 103***

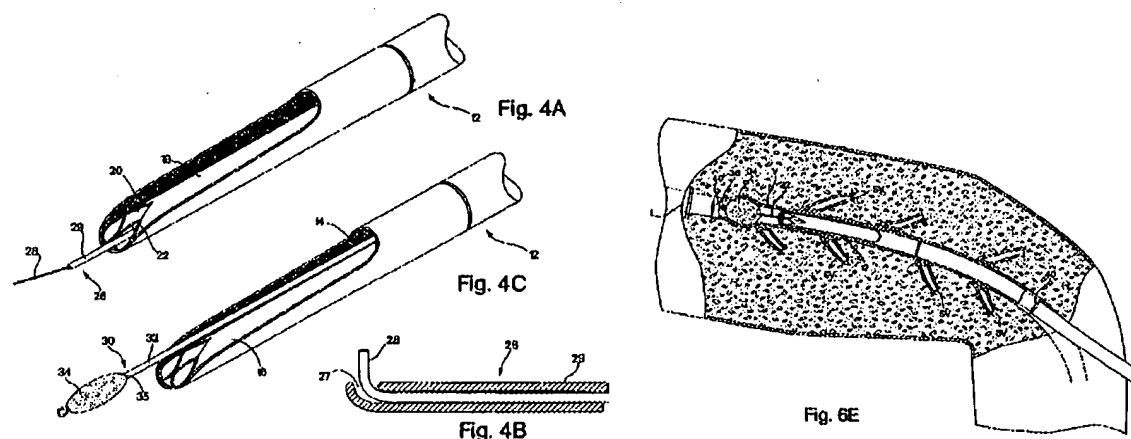
The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

**Claims 41-46** are rejected under 35 U.S.C. 103(a) as being unpatentable over **Biegeleisen, in view of Branco, Knoring, and Kokish et al., and in further view of Farley et al., and Laufer et al.**

The Biegeleisen Patent discloses a venoscope used in the treatment of varicose veins. This patent demonstrates that the steps of delivering a catheter having lumens designed for the infusion of sclerosing agent is conventional in the art. The Biegeleisen Patent does not disclose the use of balloon catheters to enhance the precision in the infusion of agents into a particular area in the body. However, the use of balloon catheters to ensure the proper deployment of an agent into a particular area of the body is conventional as evidenced by the teachings of Branco, Knoring, and Kokish, et al.

The Branco Patent discloses another venoscope enhanced with the capability of deploying balloon catheters into a varicose vein. The figures below demonstrate the conventionality of using inflatable balloon catheters in combination with a scope to precisely infuse an agent to a particular area of the body.



The Branco Patent does not disclose the step of dispensing an agent at a location proximal to the occlusion element. However, balloon catheters having such capability are well known in the art as evidenced by the teachings of Knoring and Kokish et al. Both patents provide evidence as to the conventionality of catheter designs wherein the agent is infused proximally of the Occlusion element.

Based on the teachings of the cited patents, for a person of ordinary skill in the art, modifying the venoscope disclosed by Biegeleisen with the capability of deploying balloon catheters would have been obvious considering the teachings of Branco. Moreover, modifying the balloon catheter disclosed by Branco with the capability of infusing a fluid agent proximal to a balloon would have been obvious in view of the teachings of Knoring and Kokish, et al. Conclusively, in view of the conventionality of the discussed enhancements, said modifications would have been considered obvious design choices.

Finally, in response to applicant's arguments concerning the need for motivation, the examiner of record introduces Laufer et al., and Farley et al., to demonstrate the

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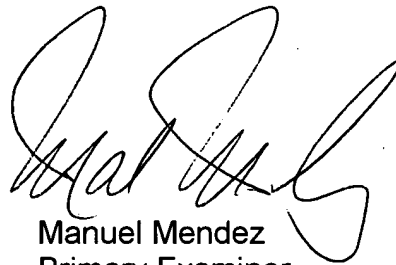
conventionality of using balloon catheters in the treatment of varicose veins.

Furthermore, Farley et al., teaches the infusion of sclerosing agent in combination with balloon catheters. Accordingly, for a person of ordinary skill in the art, the modification of any balloon catheter for the treatment of varicose veins and the use of said catheter for the infusion of sclerosing agent would have been considered obvious in view of the conventionality of these enhancements and modifications.

In view of the use of Laufer et al., and Farley et al., in the above rejections, this action is not a final office action. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Manuel Mendez whose telephone number is 703-308-2221. The examiner can normally be reached on 0730-1800 hrs.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mr. Brian Casler can be reached on 703-308-3552. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A handwritten signature in black ink, appearing to read 'Manuel Mendez', written in a cursive style.

Manuel Mendez  
Primary Examiner  
Art Unit 3763

MM